

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:09cv312

TEXTRON FINANCIAL)	
CORP.,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER FOR CLAIM</u>
)	<u>AND DELIVERY</u>
SEVEN FALLS GOLF AND)	
RIVER CLUB, LLC; KEITH)	
VINSON; and PAULA VINSON,)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on the Plaintiff's Motion for Approval of Bond and Surety [Doc. 30].

On March 25, 2010, the Court entered an Order [Doc. 29] granting the Motion of the Plaintiff Textron Financial Corporation ("Textron") for Claim and Delivery Pursuant to N.C. Gen. Stat. § 1-472, et seq. and Federal Rule of Civil Procedure 64 [Doc. 10]. In its March 25, 2010 Order, the Court stated as follows:

Textron is entitled to issuance of an order of claim and delivery conditioned upon its filing a bond in the amount of \$845,084.00 and otherwise conforming to N.C. Gen. Stat. § 1-475, and the Court's approval of the bond. The bond shall be substantially in the form

attached hereto and any surety on the bond shall be approved by the Court. The order of claim and delivery shall issue after the approval of the bond.

[Doc. 29].

On March 26, 2010, Textron filed its Motion for Approval of Surety and Bond, seeking (1) approval of Liberty Mutual Insurance Company as the surety for the required bond and (2) approval of the fully executed bond. [Doc. 30]. The Defendant Seven Falls Golf and River Club, LLC (“Seven Falls”) was ordered to file a response to Textron’s Motion on or before April 1, 2010. [Doc. 31]. On March 29, 2010, Seven Falls filed bankruptcy protection in the United States Bankruptcy Court for the Western District of North Carolina, thereby staying the present civil action. At a hearing on April 21, 2010, United States Bankruptcy Judge George Hodges dismissed Seven Falls’ bankruptcy petition and barred Seven Falls from filing for bankruptcy for 120 days. [See No. 1:10-bk-10349, Docket Text Entry dated April 21, 2010]. With the dismissal of Seven Falls’ bankruptcy action, the stay of the present civil action has been lifted. Despite the lifting of the stay, Seven Falls has not filed any opposition to Textron’s Motion for Approval of Surety and Bond.

Based on the information submitted in support of Textron's Motion, and for cause shown, **IT IS, THEREFORE ORDERED** that Textron's Motion for Approval of Surety and Bond [Doc. 30] is **GRANTED**. The bond that Textron has submitted is **APPROVED**, and Liberty Mutual Insurance Company is hereby **APPROVED** as the surety for the required bond.

IT IS FURTHER ORDERED that Textron Financial Corporation, the Plaintiff in the above-captioned action, is entitled to immediate possession of the property listed below and in the schedules and invoices attached to the Amended Complaint [Doc. 6], if additional to that listed below:

Agreement Number	Equipment Description
1025158	Jacobsen AR Fine Cut [Mower]
	Jacobsen PA 60 Var Depth Aerator
	Jacobsen GA 24 Aerator, 8 HP
	Jacobsen GA 24 Aerator, 8 HP
	Jacobsen Groom Master
	Jacobsen Groom Master
	Jacobsen LF3400 4WD
	Jacobsen LF3400 4WD
	Jacobsen LF3400 4WD
	Jacobsen 63285 GK 526A
	Jacobsen 63285 GK 526A
	Jacobsen 63285 GK 526A
	Jacobsen 63285 GK 526A
	Jacobsen 1900 Tri King Diesel
1025319	Jacobsen E-Plex II
	Jacobsen G-Plex III
1025352	Ryan Mataway [Overseeder]
	Ryan JR Sodcutter W/Honda 18" Blad

Agreement Number	Equipment Description
	Steiner 430 Tractor
	Lely HR Spreader
	Tycrop Pro Pass 1800
	Tycrop MH-400 Material Handler
1026528	Tru-Turf RS 48 Roll-N-Spike
	Tru-Turf RS 48 Roll-N-Spike
1026531	Jacobsen AR3 Triplex Rotary Mower
	Jacobsen AR3 Triplex Rotary Mower
	Jacobsen AR3 Triplex Rotary Mower
	Jacobsen Eclipse 122 Mower
	Jacobsen Eclipse 122 Mower
	Jacobsen Eclipse 122 Mower
	Jacobsen Eclipse 122 Mower
	Jacobsen Eclipse 122 Mower
	Jacobsen Eclipse 122 Mower
	Jacobsen Eclipse 122 Mower
	Jacobsen Eclipse 122 Mower
	Jacobsen Eclipse 122 Mower
	Cushman Truckster 32 HP Gas 4-WHL
1026532	Jacobsen Spraytek DS-300
	Jacobsen Spraytek DS-175
	Truckster 32 HP Gas 4-WHL A
	Cushman 1500 Top Dresser
	Turfco F15B-SP Top Dresser
	Jacobsen 63285 GK 526A
	Smithco V-72 Pull Type Sweeper
	Landpride 60" Seeder
	Billy Goat 9 HP Blower
	Billy Goat 9 HP Blower
	Cushman Core Harvester
	Turfco F15B-SP Top Dresser
	Fourteen (14) Jacobsen Mow-N-Go Trailers
1027626	Nine (9) 2008 Jacobsen 22" Turf Groomers
1028111	Four (4) E-Z-GO MPT 1200 G [Golf Cars]
1025354	Kioti DK55 Tractor

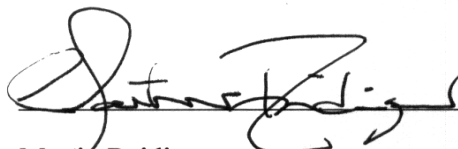
Agreement Number	Equipment Description
	Kioti DK55 Tractor
1026464	Takeuchi TL140 Crawler Loader
1026542	Express Dual 4000 Grinder
	Angle Master 4000

IT IS FURTHER ORDERED that the United States Marshal is **ORDERED** take the described property from the Defendant Seven Falls Golf and River Club, LLC and deliver it to the Plaintiff. Alternatively, the United States Marshal may allow the Plaintiff to make arrangements for the transportation of the described property and, in that event, shall ensure that the Defendant (1) allows the Plaintiff to take possession of the described property and (2) allows the Plaintiff to remove the property from the Defendant's possession.

The Clerk of Court is directed to send copies of this Order to counsel for the Plaintiff, counsel for the Defendant, and the United States Marshals Service.

IT IS SO ORDERED.

Signed: May 3, 2010


 Martin Reidinger
 United States District Judge
 